IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1817 OF 2003

Sou. Mangaladevi Fattesingh Mane Patile and ors. ..Petitioners

Vs.

Shri Shashikant Narayan Mane Patil and anr. ..Respondents

Mr. P.K. Dhakephalkar, Senior Counsel with Mr. Suresh Sabrad for petitioners.

Mr. R.V. More with Mr. Milind Deshmukh for respondent nos.1 and 2.

CORAM: B.H. MARLAPALLE, J.

Date : August 8, 2006.

P.C.:

1. Pursuant to the order passed by this court on 22/6/2006, the T.I.L.R., Malshiras has visited the suit lands of village Bagewadi and on inspection has submitted his report dated 14/7/2006 along with a map and therein he has indicated an approach road that could be made available to the defendant. The road so proposed is also close to the defendant's hut located on the road going towards Anand Nagar and on the other side of the said road the defendant's house is located. The road proposed by the T.I.L.R. and for

the benefit of the defendant so as to provide access to his agricultural land in Survey Nos.40/2 and 39/2 passes through the agricultural land in Survey Nos.42 of village Anand Nagar. The defendant was earlier claiming access to his agricultural land from Survey Nos.42, 44, 49, 50, 51, 52, 53, 56, 57, 63 and 64 of village Bagewadi and which land belongs to the plaintiff. The road proposed by the T.I.L.R. appears to be more convenient to the defendant than the road he was claiming from the agricultural land belonging to the plaintiff. Mr. More the learned counsel for the defendant has no objection if the road proposed by the T.I.L.R. is made available to him but he is afraid that the land owner of Survey No. 42 of village Anand Nagar who is not before this court and is not party in the pending proceeding before the trial court may object.

2. It is, therefore, directed that the report received from the T.I.L.R. be forwarded to the trial court and for being taken on record in RCS No.34 of 2002 and the trial court after hearing the owners of the respective lands shall decide the issue of

providing road to the defendant as per the report of the T.I.L.R. and this shall be done as expeditiously as possible and preferably within a period of three months from receipt of the writ and in case the said proposal of the T.I.L.R. is accepted, nothing further will survive in the suit.

3. In the meanwhile, until the above issue is decided on the basis of the report of the T.I.L.R., the status quo as at present shall continue to operate.

4. Writ Petition disposed off in terms of the above directions.

(B.H. Marlapalle,J.)